

Remarks

I. Status of claims

Claims 13-20 and 22-24 were pending.

The dependency of claim 22 has been amended to correct a typographical error.

Previously withdrawn claims 1-12 have been canceled without prejudice.

II. Claim rejections

The Examiner has rejected claims 13-20 and 23 under 35 U.S.C. § 103(a) over Lee (U.S. 2002/0135825) in view of Pike (U.S. 6,479,879).

MPEP § 2136.03.I. provides that:

Foreign applications' filing dates that are claimed (via 35 U.S.C. 119(a) – (d), (f) or 365(a)) in applications, which have been published as U.S. or WIPO application publications or patented in the U.S., may not be used as 35 U.S.C. 102(e) dates for prior art purposes. This includes international filing dates claimed as foreign priority dates under 35 U.S.C. 365(a).<Therefore, the foreign priority date of the reference under 35 U.S.C. 119(a)-(d) **>(f), and 365(a)< cannot be used to antedate the application filing date.

Accordingly, Lee is effective prior art as of its U.S. filing date of July 13, 2001.

As established by the attached Declaration Under 37 CFR § 1.131, however, Applicants had conceived and diligently reduced to practice the subject matter recited in the pending claims in this country prior to prior to Lee's effective filing date (i.e., July 13, 2001), at least to the extent of the pertinent portion of Lee's disclosure relied upon by the Examiner. Therefore, Lee is not prior art.

Since the rejection of each of the pending claims relies to some extent on the disclosure of Lee, the Examiner's rejection of claims 13-20 and 23 under 35 U.S.C. § 103(a) over Lee in view of Pike should be withdrawn.

Applicant : Duane Fasen et al.
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III. Conclusion

For the reasons explained above, all of the pending claims are now in condition for allowance and should be allowed.

Charge any excess fees or apply any credits to Deposit Account No. 50-1078.

Respectfully submitted,

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